

Application No. 10/711,072  
Docket No. A4-1731  
Amendment dated December 7, 2005  
Reply to Office Action of September 7, 2005

### **REMARKS**

In the Office Action, the Examiner reviewed claims 1-20 of the above-identified US Patent Application, with the result that all of the claims were rejected under 35 USC §103. In response, Applicant has amended the claims as set forth above. More particularly:

Independent claims 1 and 13 have been amended to recite means for removably attaching the traction straps (14) to the lateral regions (32) of the body (22) and enabling the traction straps (14) to be detached from the body (22) while the patient's lower leg (52) and foot (50) remain supported by and within the body (22). Support for these amendments can be found in Applicant's specification at paragraph [0018].

Dependent claims 5 and 17 have been amended to substitute the term "adjustable" for "adjustably" as suggested by the Examiner.

Applicant believes that the above amendments do not present new matter. Favorable reconsideration and allowance of claims 1-20 are respectfully requested in view of the above amendments and the following remarks.

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### **Rejections under 35 USC §103**

Independent claims 1 and 13 and their dependent claims 2-12 and 14-20 were rejected under 35 USC §103(a) as being unpatentable over U.S. Patent No. 3,804,085 to Eshuis et al. (Eshuis) in view of U.S. Patent No. 3,978,853 to Morrison and in further view of either U.S. Patent No. 3,780,731 to Quello or U.S. Patent No. 5,449,339 to Drennan. Applicant respectfully requests reconsideration of these rejections in view of the claims as amended and the following comments.

Applicant's invention is directed to a traction device (10) adapted to support a patient's heel and reduce heel and malleolar pressure while the patient's leg is in traction. As now amended, Applicant's independent claims 1 and 13 require that the traction device (10) includes a body (22) having a cavity (34) sized and shaped to support a patient's lower leg (52) above a bed on which the patient reclines and support the patient's foot (50) in an upright position so that the patient's heel is suspended within the cavity (34). The traction device (10) further includes traction straps (14) that extend from a forefoot portion (24) of the body (24) and means ("complementary fastening means" in Figure 13) that removably attaches the traction straps (14) to the body (22) and enables detachment of the traction straps (14) from the body (22) while the patient's lower leg (52) and foot (50) remain supported by and

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within the body (22).

Under each of the §103 rejections, the Examiner relied on Eshuis for disclosing a body (11) having a cavity in which "the patient's heel is necessarily suspended within the cavity (above the bed) and heel and malleolar pressure are necessarily reduced . . . ." Morrison was cited for disclosing "a traction device comprising a body (14) formed of a flexible and compressible material having an interior surface (inner surface of 80) [that] provides a sufficiently high friction interface (column 4, lines 53-59) with the patient's lower leg capable of preventing sliding of the body on the patient's lower leg . . . ." Finally, Quello was applied for disclosing a traction bar (14), and Drennan was applied for disclosing "a body (10) for preventing foot drop formed of a flexible and compressible material (foam)" and with various additional elements recited in claims 1, 2, 5-14, and 17-20.

While Eshuis was cited for disclosing a body 11 in which "the patient's heel is necessarily suspended within the cavity (above the bed) and heel and malleolar pressure are necessarily reduced," Eshuis's body 11 clearly does not suspend a patient's heel within the body 11, because Eshuis shows the patient's heel as being contacted and supported by the body 11, which is contrary to the ordinary meaning of the word "suspended." In fact, of the traction devices of record (including Eshuis, Morrison, and Quello), none

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suspends a patient's heel within the body that applies traction to the patient's leg/foot.

While Drennan discloses a protective boot 10 comprising a body 20 that supports a patient's leg and foot while suspending the patient's heel within the body 20, Drennan neither discloses nor suggests that the boot 10 is suitable as a traction device, and particularly, that the boot 20 would enable a traction load to be applied solely to a patient's upper leg without applying any traction load to the patient's foot.

Finally, none of the prior art of record discloses or suggests a traction device that can be converted into a support boot while the patient's foot and leg remain within the device by simply removing straps used to apply the traction load. While Eshuis was cited for disclosing "traction straps (20) removably (stitching capable of being severed and removed) attached to the lateral regions of the body [11]," Eshuis' stitching is not "means . . . for enabling the traction straps to be detached from the body while the patient's lower leg and foot remain supported by and within the body" required by claims 1-12, nor "complementary fastening means" as required by claims 13-20. Furthermore, to remove Eshuis' traction strap 20, each of the straps 13 holding the body 11 on the patient's leg would require unfastening before the stitches attaching the

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traction strap 20 to the body 11 could be removed, with the result that Eshuis' traction strap 20 cannot be "detached from the body while the patient's lower leg and foot remain supported by and within the body," as required by Applicant's claims.

According to MPEP 2143, entitled "Basic Requirements of a *Prima Facie* Case of Obviousness,"

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Nothing in the prior art of record suggests or motivates one to combine any one or more of the traction devices of Eshuis, Morrison, and/or Quello with the protective boot of Drennan to arrive at Applicant's invention, and nothing in the prior art of record teaches or suggests a device in which a traction strap is attached in a manner that permits the device to be quickly converted from a

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traction device to a protective boot while the device remains on and continues to support and protect the patient's lower leg and foot, including the avoidance of heel and malleolar pressure. Therefore, Applicant respectfully believes that the applied references do not meet the standard of MPEP §2143, and respectfully requests withdrawal of the rejections under 35 USC §103.

### Closing

In view of the above, Applicant believes that the rejections to his claims have been overcome, and that the claims define patentable novelty over all the references, alone or in combination, of record. It is therefore respectfully requested that this patent application be given favorable reconsideration.

Should the Examiner have any questions with respect to any matter now of record, Applicant's representative may be reached at (219) 462-4999.

Respectfully submitted,

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